

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
Baltimore Division**

DOMINION TRANSMISSION, INC.)
)
Petitioner,)
)
v.) Docket No. 13-338
)
TOWN OF MYERSVILLE TOWN)
COUNCIL, TOWN OF)
MYERSVILLE, and WAYNE S.)
CREADICK, JR., in his official)
capacity as Mayor of the Town)
of Myersville)
)
Respondents.)
)

MOTION FOR LEAVE TO INTERVENE

Pursuant to Rule 24(a)(2) of the Federal Rules of Civil Procedure, the Myersville Citizens for a Rural Community, Inc. (MCRC) hereby submits this motion for leave to intervene in the above-captioned proceeding. MCRC is an association incorporated under the laws of Maryland that formed to oppose petitioner

Dominion Transmission, Inc.'s (Dominion's) plan to site a 16,000 horsepower, industrial-sized, compressor station in the rural-residential community of Myersville, Maryland.¹ In support of the motion, MCRC states the following:

1. The above-captioned proceeding concerns the petition filed by Dominion pursuant to Section 19(d)(2) of the Natural Gas Act, 15 U.S.C. § 717r(d)(2), for review of a determination by the Town of Myersville (the Town). On August 27, 2012, the Town denied Dominion's application for a zoning variance (the "Amendment Application") for the proposed Myersville Compressor Station. The Town found, among other things, that Dominion's Amendment Application would pose a hazard to public health and safety in contravention of § 165-150.D(1) of the Town Code due to the processing of inherently hazardous material and would pose a nuisance to the public by reason of noise in contravention

¹ MCRC has nine members. Dr. Franz Gerner is the president of the organization. Theodore Cady, Tammy Mangan, and Ann Nau are core members who play lead roles in the organization.

of § 165-150.D(1).

2. Dominion received a certificate of necessity and convenience for the Myersville Compressor Station from the Federal Energy Regulatory Commission (Commission) on December 20, 2012.²

The certificate, which is currently pending rehearing,³ conditioned construction of the Myersville Compressor Station upon proof of receipt of all required federal authorizations,⁴ including air quality permits under the Clean Air Act, 42 U.S.C. § 7410 (2006).

3. In order for Dominion to comply with the certificate order, it must apply for a federal air quality permit from the Maryland Department of Environment (MDE). MDE requires applicants for

² *Dominion Transmission Inc.*, Order Issuing Certificate, 141 FERC ¶ 61,240 (December 20, 2012)(hereinafter “Certificate Order”).

³ *Dominion Transmission Inc.*, Order Granting Rehearing for Further Consideration, Docket No. CP12-72-001 (February 11, 2013)(hereinafter “Rehearing Order”).

⁴ Certificate Order, Exhibit A, at ¶ 8(requiring Dominion to show documentation “that it has received all applicable authorizations required under federal law.”)

air quality permits to demonstrate compliance with applicable zoning laws under MD ENV. § 2-404.⁵ MCRC has contended throughout their participation in the proceedings at the Commission that the Commission should not grant Dominion a certificate of public convenience. The Town's denial of Dominion's Amendment Application prevented Dominion from being able to obtain a federal clean air permit because Dominion cannot show compliance with local zoning laws.

4. MCRC played a pivotal role in the zoning process and air quality permitting issues throughout the certificate process. MCRC was responsible for first raising the issue of Dominion's inability to obtain the required air quality permit at the Commission through a motion to dismiss on October 1, 2012.⁶ Further, Dr. Franz

⁵ See Dominion Petition, Exhibit B (Letter from the Maryland Department of the Environment explaining inability to process Dominion's application in light of non-compliance with zoning law).

⁶ Myersville Citizens For A Rural Community (MCRC) Motion To Dismiss Dominion Transmission Incorporated's (DTI) Application

Gerner, on behalf of MCRC, brought the air quality permit issue to the attention of MDE and was the recipient of MDE's letter that Dominion challenges.

5. MCRC and its members have a direct and substantial interest in the Town's determination that is the subject of this proceeding. MCRC is comprised of residents of Myersville, Maryland, and the surrounding area, who live in close proximity to the intended compressor station site. MCRC and its members will endure the adverse effects of siting an industrial facility in a rural community, including, but not limited to, toxic emissions, degradation of air quality, noise pollution, damage to historic properties and viewshed, and steep decline in property values. As a result of the direct impacts of the compressor station to their community, MCRC and its members intervened in the Commission proceeding and participated extensively, collectively filing hundreds of pages

For Allegheny Storage Project, Accession Number 20121001-5114
(October 1, 2012).

of comments in opposition to the project.

6. MCRC will be directly impacted by the outcome of this proceeding in several ways. First, MCRC and its members participated in the Town's zoning proceeding and fully supports the Town's well-reasoned decision to deny a variance. As such, MCRC has an interest in ensuring that the effect of the Town's zoning decisions, particularly for purposes of the Clean Air Act, is not eviscerated by the application of the preemption doctrine.

7. Second, MCRC and its members have filed rehearing of the Commission's order issuing Dominion a certificate and denying MCRC's motion to dismiss the application because of Dominion's inability to obtain an air quality permit.⁷ Thus, this Court's ruling on Dominion's petition will impact the arguments raised by MCRC on rehearing.

8. Third, Dominion filed a petition for review of MDE's decision to

⁷ Request For Rehearing By Myersville Citizens For A Rural Community Of Order Issuing Certificate To Dominion Transmission Inc., Accession Number 20130122-5107 (January 22, 2013).

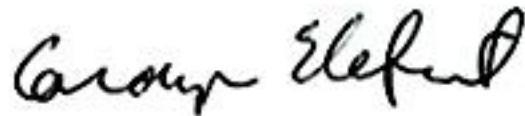
withhold its grant of the air quality permit in the Court of Appeals for the D.C. Circuit.⁸ The Town's decision on Dominion's Amendment Application directly relates to that case and thus, this Court's ruling on Dominion's petition will impact the arguments raised by MCRC at the D.C. Circuit Court.

9. MCRC's position and interests are not adequately represented by any other party to the proceeding. Although MCRC fully supports Town's determination, MCRC has additional interests in preserving the Town's ruling, such as protecting its arguments on rehearing before the Commission and most importantly, ensuring that individual members do not suffer the adverse impacts that will result from this ill-conceived project.

⁸ Dominion filed a petition for review of the MDE letter in the D.C. Circuit Court of Appeals on February 1, 2013. This case is docketed as *Dominion Transmission Inc. v. Robert Summers et. al.*, Docket Number 13-1019.

For the foregoing reasons, MCRC respectfully requests that this Court GRANT its motion to intervene and make MCRC a party to this proceeding with full rights of participation.

Respectfully submitted,



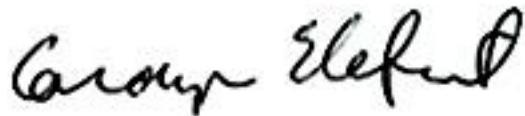
Carolyn Elefant
LAW OFFICES OF CAROLYN ELEFANT
2200 Pennsylvania Avenue N.W.
Fourth Floor East
Washington D.C. 20037
(202) 297-6100
Carolyn@carolynelefant.com

Dated March 8, 2013
WASHINGTON DC

CERTIFICATE OF SERVICE

I hereby certify that on March 8, 2013, I caused the Myersville Citizens for a Rural Community, Inc.'s Motion to Intervene to be served electronically through the ECF system.

Respectfully submitted,



Carolyn Elefant